

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK LEE,

Plaintiff,

CIVIL ACTION

v.

**BOROUGH OF DOWNINGTOWN,
STEPHEN SULLINS, JACK LAW,
Defendants.**

NO. 12-6913

ORDER

AND NOW, this 30th day of April, 2013, upon consideration of Defendants' Borough of Downingtown, Stephen Sullins and Jack Law's Motion to Dismiss Plaintiff's Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Document No. 6, filed January 7, 2013), and the Answer of the Plaintiff, Mark Lee, to the Defendants' Motion to Dismiss Pursuant to Federal Rules [sic] of Civil Procedure 12(b)(6) (Document No. 7, filed January 15, 2013), for the reasons set forth in the Memorandum dated April 30, 2013, **IT IS ORDERED** as follows:

1. That part of defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6), which seeks dismissal of plaintiff's First Amendment claim, is **GRANTED**, and plaintiff's First Amendment claim asserted in Count One of the Complaint is **DISMISSED WITH PREJUDICE**.

2. Pursuant to 28 U.S.C. § 1367(c)(3), the Court declines to exercise supplemental jurisdiction over the remaining state law claims. Accordingly, plaintiff's state law claims asserted in Counts Two and Three of the Complaint are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. The Clerk of Court shall provide plaintiff's counsel with a certified transcript of the final judgment of this Court and a certified transcript of the proceedings in this action in accordance with 42 Pa. Con. Stat. Ann. § 5103(b) to facilitate the transfer of

plaintiff's action to the appropriate Court of Common Pleas.¹

3. That part of defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6), which seeks dismissal of plaintiff's state law claims in Counts Two and Three of the Complaint on the merits, is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the Clerk of Court shall **MARK** the case **CLOSED**.

BY THE COURT:

/s/ Hon. Jan E. Dubois

DuBOIS, JAN E., J.

¹ Section 5103(b) provides that a matter filed in the federal court, within the applicable statute of limitations, but dismissed for lack of jurisdiction, may be transferred to state court without a federal court order if the plaintiff promptly fulfills the transfer requirements set forth in Section 5103(b)(2). These requirements include "filing a certified transcript of the final judgment of the United States Court and the related pleadings in a court or magisterial district of this Commonwealth.